REMARKS

In response to the above-identified Final Office Action, Applicant seeks reconsideration thereof. In this response, Applicant does not amend, cancel, or add any new claims. Accordingly, Claims 1-27 are pending.

I.   Claims Rejected Under 35 U.S.C. § 102

Claims 1-3 and 10-13 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,848,396 issued to Gerace ("Gerace'396"). Applicant respectfully traverses the rejection.

To anticipate a claim, the Examiner must show that a single reference teaches each of the elements of that claim. Claim 1 recites the elements of "receiving a feedback data from each of the plurality of clients transparent to the user of the clients, wherein the feedback data is based on information stored in a memory device of each of the clients." (Emphasis Added). Applicant submits that Gerace'396 at least does not teach these elements.

The Examiner characterizes the feedback data as the "successful use of advertisement, including hits and click-throughs" at page 4, lines 10-11 of the Final Office Action. In the same Final Office Action, the Examiner cites the passage at col. 6, lines 48-55 of Gerace'396 for teaching the claimed feedback data. The cited passage discloses a user session object 37d that stores a referring link, the user's identification number, and an indication of web browser software employed by the user's computer. None of these data items even remotely relates to the successful use of advertisement. The user session object 37d collects these data items regardless whether the user responds to an advertisement. Thus, the Examiner has inappropriately pointed to two divergent objects for teaching the feedback data.

Moreover, Gerace'396 does not teach the claimed "receiving a feedback data...transparent to the user of the clients." Deciding whether to order an item online in response to an advertisement cannot be transparent to the user, because it requires some action on the user's part.

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Both hits and click-throughs require a user to take action. Information stored in the cookies or the session object 37d at most provides hints as to which advertisement to display but cannot decide for the user whether to place an order. Thus, Gerace'396 at least does not teach this element.

Additionally, Gerace'396 discloses collecting feedback data by counting the number of hits and click-thoughs. The numbers of hits and click-thoughs does not use and is not based on the information stored in the clients. Rather, the numbers of hits and click-thoughs is generated by the user's action. If the user does not take any action, nothing will be ordered. There is nothing in Gerace'396 that teaches the use of stored information in the clients to determine whether an order should be placed. Therefore, Gerace'396 does not teach each of the elements of Claim 1.

In regard to Claims 2, 3, and 10-13, these claims depend from independent Claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to Claim 1, Gerace'396 does not teach each of the elements of these claims. Accordingly, reconsideration and withdrawal of the anticipation rejection of these dependent claims are requested.

Claims 14-16 and 20-27 stand rejected under the same rationale that Claims 1-3 and 10-13 are rejected. As Claims 14-16 and 20-27 recite similar limitations as those recited in Claims 1-3 and 10-13, analogous discussion applies. Accordingly, reconsideration and withdrawal of the anticipation rejection of Claims 14-16 and 20-27 are requested.

II.   Claims Rejected Under 35 U.S.C. § 103

Claims 4-9 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,991,735 issued to Gerace et al ("Gerace'735") in view of U.S. Patent No. 5,999,908 issued to Abelow ("Abelow"). Applicant respectfully traverses the rejection.

To establish a *prima facie* case of obviousness, the Examiner must show the cited references, combined, teach or suggest each of the elements of a claim. Gerace'735 discloses a similar user session object 37d and hits and click-throughs as disclosed in Gerace'396. Thus,

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similar to the reasons discussed above in regard to Claim 1, Gerace'735 does not teach or suggest receiving a feedback data transparent to the user of the clients wherein the feedback data is based on information stored in the clients as recited in Claim 1. Abelow does not cure the defects of Gerace'735. Abelow explicitly requires a user's participation in generating the feedback data (Fig. 2). Thus, Gerace'735 in view of Abelow does not teach or suggest each of the elements of Claim 1.

Claims 4-9 depend from independent Claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned in regard to Claim 1, Gerace'735 in view of Abelow does not teach or suggest each of the elements of Claims 4-9.

Moreover, a skilled person in the art would not be motivated to combine Gerace'735 with Abelow. Gerace'735 is directed toward collecting statistics for an advertisement and is not in the least concerned about improving the speed or efficiency of product design as taught by Abelow (Abstract). Neither reference provides any motivation to combine the feedback of Gerace'735 which occurs before the delivery of a product with the feedback of Abelow which occurs during the use of a product. Thus, the Examiner has engaged in impermissible hindsight construction in the proposed combination.

Accordingly, reconsideration and withdrawal of the obviousness rejection of Claims 4-9 are requested.

Analogous discussion applies to Claims 17-19 which recite similar limitations as those recited in Claims 4-9. Accordingly, reconsideration and withdrawal of the obviousness rejection of Claims 17-19 are requested.

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CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely Claims 1-27 patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE
I hereby certify that this correspondence is being transmitted via facsimile on the date shown below to the United States Patent and Trademark Office.

_____Nadya Gordon_____

Nadya Gordon   August 9, 2005
Signature   Date